

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CAROTEK, INC.,)	
)	
)	
Plaintiff,)	
)	Civil Action No. 07 11163
v.)	
)	
KOBAYASHI VENTURES, LLC,)	
)	
Defendant.)	
<hr style="border: 0.5px solid black;"/>		
EVENT CAPTURING SYSTEMS, INC.)	
)	
Plaintiff,)	
)	
v.)	
)	
KOBAYASHI VENTURES, LLC,)	
)	
Defendant.)	
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**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT
ON STANDING, OWNERSHIP AND MOST FAVORED LICENSEE ISSUES**

COMES NOW, Plaintiffs Carotek, Inc. ("Carotek") and Event Capturing Systems, Inc. ("ECS") and moves the Court for summary judgment pursuant to Federal Rule of Civil Procedure 56. Carotek and ECS move for summary judgment on three separate grounds:

- (1) Kobayashi does not have standing to sue Carotek or ECS for patent infringement of U.S. Patent No. 5,717,456 ("the '456 patent"), U.S. Patent No. 5,821,990 ("the '990 patent"), and U.S. Patent No. 6,211,905 ("the '905 patent") occurring before December 10, 2007;

- (2) Kobayashi does not have standing to sue for an alleged breach of a License Agreement to which Carotek is a party because Kobayashi does not have legal title to the Carotek license agreement;
- (3) Carotek is owed past royalty moneys overpaid to its alleged predecessors-in-interest because of violation of the terms of a most favored licensee clause found in the license agreement; and
- (4) Kobayashi did not own the Carotek License Agreement or Champion Patents when it gave notice of termination, and thus Carotek is still protected by the terms of the Carotek license agreement.

Carotek and ECS submit a memorandum herewith in support of their motion.

NOW THEREFORE, Plaintiffs respectfully move for summary judgment against Kobayashi. A proposed order granting the requested relief is provided for the Court's consideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT ON STANDING, OWNERSHIP AND MOST FAVORED LICENSEE ISSUES** was served on the Defendant by sending copies by E-Mail:

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on September 3, 2008.

/s/ Miranda Perkins